

**Notice of Allowability**

Application No.

09/676,364

Examiner

Joshua D Campbell

Applicant(s)

ROPER ET AL.

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-final amendment filed on 5/2/2005.
2. ☒ The allowed claim(s) is/are 3-5, 7-11, 14-16, 18-22, 24-26 and 28-32.
3. ☒ The drawings filed on 29 September 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
HEATHER R. HERNDON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

### REASONS FOR ALLOWANCE

1. This action is responsive to communications: After-final Amendment filed on 05/02/2005.
2. Claims 3-5, 7-11, 14-16, 18-22, 24-26, and 28-32 are pending in this case. Claims 3, 14, and 24 are independent claims. Claims 3, 7, 17, 18, 24, and 28 have been amended. Claims 1, 2, 6, 12, 13, 17, 23, and 27 have been cancelled.
3. The rejection of claims 1, 2, 6, 12, 13, 17, 23, and 27 under 35 U.S.C. 103(a) as being unpatentable over Banner Server Solutions (hereinafter BSS, <http://www.bannerserver.com> as published on June 21, 2000) in view of Macartney-Filgate et al. (hereinafter Macartney-Filgate, US Patent Application Publication, US filing date of December 17, 1999) has been withdrawn due to amendments.
4. Claims 3-5, 7-11, 14-16, 18-22, 24-26, and 28-32 are allowed.
5. The following is an examiner's statement of reasons for allowance:

Regarding amended independent claim 3, none of the references, either singularly or in combination, teach or suggest to a person of ordinary skill in the art at the time of the invention the features, "... selecting display items from a pool of all candidate sets of display items in a manner that equalizes the probability..." and "defining a plurality of different levels of source participation ... selecting a predefined number of display items from said selected items at each level," together. The

examiner notes that while selected ads to fill display slots in a web page is not a novel feature (See Examiner Referenced Patents and Non-patent Literature), but in combination with the other limitations of the method steps and system functions of the independent claim (i.e. equalizing and assigning levels prior to selection) the limitations of claim 3 are considered novel, and unobvious to a person of ordinary skill in the art at the time the invention was made in view of the prior art of record.

In regards to independent claims 14 and 24, the examiner notes that said claims are substantially similar to independent claim 3 and recite system and method versions of the same limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D Campbell whose telephone number is (571) 272-4133. The examiner can normally be reached on M-F (8:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC  
May 26, 2005

  
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